

CONWAY PLANNING BOARD

MINUTES

APRIL 16, 1998

A meeting of the Conway Planning Board was held on Thursday, April 16, 1998, beginning at 7:08 p.m. at the Conway Town Office in Center Conway, NH. Those present were: Chairman, Catherine Woodall; Selectmen's Representative, Jac Cuddy; Vice Chairman, Charlene Browne; Secretary, Dana Hylen; David Fitch; Town Planner, Dawn Emerson; Town Engineer, Paul DegliAngeli; Town Council, Peter Hastings; and Recording Secretary, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Fitch made a motion, seconded by Ms. Browne, to approve the Minutes of March 5, 1998, as written. Motion unanimously carried.

Ms. Browne made a motion, seconded by Mr. Hylen, to table the Minutes of April 2, 1998, until the next meeting. Motion unanimously carried.

COUNTRY NEWS CLUB, INC. (CONWAY DAILY SUN) - MINOR SITE PLAN REVIEW (MAP 70, PARCEL 11B) FILE #MR98-01

Mark Guerringue appeared before the Board. Mr. Guerringue submitted pictures of the existing building and a sketch of the proposed building to the Board. Mr. Guerringue stated that this site is located in the commercial zone, however, they are trying to be compatible with the residential structures. Mr. Fitch made a motion, seconded by Ms. Browne, to accept the application of Country News Club, Inc., for Minor Site Plan Review. Motion unanimously carried.

Mr. Fitch stated that he was concerned that the plans were not to scale and requested that the plans be double checked. Marc Ohlson, an abutter, stated that he was also concerned that the plans were not to scale. Ms. Woodall asked why are the parking spaces in the setback. Mr. Guerringue stated that the Conway Daily Sun property and the laundromat property were used as one parcel for fifty (50) years. Mr. Guerringue stated that he is trying to improve the sites as if it is one site in order to save greenspace. Ms. Woodall asked why they cannot be moved back. Mr. Ohlson stated that they are looking to put the laundromat's LP tanks on the Sun property. Mr. Ohlson stated that the property line was drawn after the uses existed.

Mr. Ohlson stated that they looked at both parcels and came up with the best way to use them. Ms. Woodall stated that the applicant will need an easement for the parking and one for the LP tanks. Mr. Ohlson agreed. Mr. Fitch asked if the designated snow storage area was not on the LP tanks. Mr. Ohlson answered in the affirmative and stated that there was room for both. Ms. Woodall read the waiver request for Article 123-30.A.(2) & (3). Ms. Woodall read the conditions to grant a waiver under Article 123-41. **Mr. Cuddy made a motion to approve the waiver request for Article 123-30.A(2) & (3).** Ms. Woodall asked for public comment; there was none.

Mr. Hylen stated that he fails to see why the Board would grant this waiver as he does not see the benefit in granting this waiver. Ms. Woodall stated that the applicant would have to sign an easement agreement. Mr. Hylen asked why there is a requirement and then the Board will waive it. Ms. Woodall stated that the abutter is putting items on the applicants property as well. Mr. Hylen stated that they are bargaining. Mr. Guerringue stated that you have neighbors that have compatible businesses. Mr. Hylen stated that you may not always own the property. Ms. Browne stated that both businesses know about the easement. Mr. Hylen stated that he does not see the benefit.

Mr. Fitch stated that this is definitely an improvement and frees up some parking space. **Ms. Browne seconded the motion. Motion carried with Mr. Hylen voting in the negative.** Ms. Woodall stated that the application should be continued for the easement agreement and until the dimensions on the plan are corrected. Peter Hastings stated that a lawyer needs to draw up the easement, submit it to the Town and be recorded with the plans. Shawn Bergeron stated that it is not uncommon for the Board to grant a conditional approval and asked why the change. Ms. Woodall stated that the Board discussed this at a work session and agreed to do away with conditional approvals because there have been problems with them.

Ms. Browne stated that the dimensions on the plans are incorrect. Mr. Cuddy stated that the plans have been reviewed by the staff and the easement is to be recorded. Mr. Cuddy stated that there are no other questions. Ms. Emerson stated that the Board could give a conditional approval based on the easement or continue the application in order to receive the easement. Mr. Cuddy made a motion to conditionally approve the application for Country News Club, Inc., conditionally upon the review of the plan with the dimensions to be exact and the parking easement. There was no second.

Mr. Fitch stated that he was not concerned with the dimension of the parking spaces because the dimension is labeled on the plans. Mr. Fitch stated that he did not have a problem with the easement. Ms. Browne stated that last week the Board discussed procedures and the Board agreed that they wouldn't grant conditional approvals because of problems in the past. **Ms. Browne made a motion to continue the application for Country News Club, Inc., until April 27, 1998.** Mr. Guerringue stated that the application can be opened up again. Mr. Ohlson stated that the only issue is the scale of the plan and the easement. The Board agreed. **Mr. Hylen seconded Ms. Browne's motion.** Motion carried with Mr. Cuddy abstaining.

ICE SKATING RINK - CONCEPTUAL REVIEW (MAP 32, PARCEL 1)

Bayard Kennett; Darrel Umlah; and Jim Doucette appeared before the Board. Mr. Doucette stated that they came before the Board a year ago. Mr. Doucette showed the Board the original plan. Mr. Umlah stated that at the request of the Board, they added more greenspace along West Main Street. Mr. Kennett stated that they minimized the appearance of the building with plantings. Mr. Umlah stated that they spruced up the regular steel building. Mr. Umlah showed a picture of the proposed building elevations. Mr. Doucette stated that they are a non-profit organization.

Mr. Umlah stated that most of the buildings on the Lucy Lumber property have been removed and the rest will be removed. Mr. Fitch stated that curbing is being eliminated and asked how much curbing will be put in. Mr. Doucette stated that they will eliminate curbing in one portion of the parking lot in order to use it for roller blading. Mr. Doucette stated that there will be curbing around the building. Mr. Doucette stated that the removal of curbing in the back parking lot was for sheet run-off. Mr. DegliAngeli stated that when curbing is required it is to be granite. Mr. DegliAngeli stated that the Town has been consistent requiring curbing with developments that abut roadways. Mr. DegliAngeli stated that there does not seem to be a traffic problem because the entrance and egress have curbing.

Mr. Fitch stated that he understands the desire for roller blading and sheet flow, however, it seems that we are picking and choosing. Mr. DegliAngeli stated that the ordinance defines what is required. Mr. Cuddy asked when are islands required. Ms. Emerson stated that it goes by the number of rows and this plan does not require islands. Mr. Doucette asked if the building elevations are satisfactory to the Board. Ms. Woodall answered in the affirmative. Ms. Browne asked if the applicant meets the are required number of handicap parking spaces. Ms. Emerson answered in the affirmative.

EVELYN BURKE, ET AL/WALMART - CONDITIONS OF APPROVAL (MAP 61, PARCEL 38-60) FILE #95-05

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Margaret Bowles, Attorney for Walmart, appeared before the Board. Ms. Bowles stated that at the last meeting there were two items of concern. Ms. Bowles stated that condition #1 requires the NHDOT driveway agreement. Ms. Bowles stated that there is a letter from Walmart confirming that they accept condition #1. Ms. Bowles read the letter and stated that Walmart plans to build the road. Ms. Bowles stated that Walmart met with the NHDOT and confirmed that Walmart will construct the road. Ms. Bowles stated that Walmart has given the Town a performance bond.

Ms. Bowles stated that under condition #2, Walmart has provided a letter from Don Lyford that the wetland permit is in hand and that Walmart can construct the road under those permits. Ms. Bowles provided the Board a copy of a letter from Ken Kyle. Ms. Bowles stated that Walmart has now complied with all the conditions. Ms. Woodall stated that according to the agreement, the road has to be accepted by the NHDOT. Mr. Hastings stated that the NHDOT has filed a notice of taking from Route 302 to the Fairway. Mr. Hastings stated that Walmart has bonded the Town and have committed to building the road. Mr. Hastings stated that the NHDOT is acceptable to this. Mr. Hastings stated that there will be lights on Route 302 until the NHDOT reconstructs the road.

Ms. Emerson stated that she has a copy of the driveway permit. Mr. DegliAngeli stated that he did review the driveway permit with Ms. Woodall early in the day. Ms. Browne asked if this goes to the Fairway. Mr. Hastings stated that up to the Fairway is all the NHDOT has taken. Ms. Browne stated that she thought it was a part of the draft agreement that the NHDOT would construct the road from Route 302 to the Common Court. Mr. Hastings stated that the NHDOT is still committed to do that, but it won't be built until they take that land. Mr. Hastings stated that the NHDOT has not taken the land yet, but they plan to construct the road to Common Court in the Spring of 1999.

Ms. Browne stated that it was apart of the agreement that the road be constructed to Common Court. Mr. Hastings stated that the agreement was never signed. Mr. Hastings stated that the actual taking has already been approved and cannot be appealed. Mr. Hastings stated that an abutter has only appealed for monetary damages. Mr. Hastings stated that north of the Fairway was never before the Board that Walmart would take it or that the Town would take it, but the State would as part of the local north/south road. Mr. Hastings stated that they have not taken that yet, but the State says it in there plan for 1999. Mr. Hastings stated that Walmart has agreed to construct from Route 302 to the Fairway which is what the condition calls for. Mr. Hastings stated that they did bond at least 100% of that construction.

Mr. Hastings stated that under condition #2 there is a letter from NHDOT that they hold the wetlands permit for the entire project. Mr. DegliAngeli stated that the permit goes with the property owner. Mr. Hastings stated that Walmart has approval to handle the wetland. Mr. Hastings stated that the other issue was bonding and an additional \$340,000 has been bonded to the Town. Mr. Hastings stated that the Town could build the road if Walmart does not. Mr. Hastings stated that their acknowledgment to the Town by Walmart is that they cannot open their doors until the road is constructed to the Fairway. Mr. Hastings stated that the State will sign off on that. Ms. Browne stated that traffic studies were conducted and they discussed the local north/south road and the Fairway as that is partially effected by the added traffic from Walmart.

Mr. Cuddy stated that the local north/south road was thrown in to satisfy the people of Conway. Mr. Cuddy stated that it was not proposed for traffic distribution, but to satisfy the Town. Mr. DegliAngeli stated that there were traffic studies done by the NHDOT for the bypass. Mr. DegliAngeli stated that when Walmart came as an applicant the Town had them submit a traffic study as well as the NHDOT. Mr. DegliAngeli stated that the applicant stated that additional off-site improvements would be required. Mr. Hastings stated that that the Town had their own traffic consultant to review the traffic counts. Mr. Hastings stated that the Town's traffic consultant signed off on those numbers. Ms. Woodall asked Mr. Hastings if he agreed that all the conditions have been met. Mr. Hastings answered in the affirmative.

Ms. Woodall asked what guarantee does the Town have that the State will construct from the Fairway to Common Court. Mr. Hastings stated that the only guarantee is that the State has the construction of the

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local north/south road in a ten-year plan, but it is funded separately. Mr. Cuddy stated that \$7 million has just come through. Ms. Woodall stated that it has not been voted on yet through Congress. Mr. Hastings stated that when the money comes through they will use it, but it is not even on the table in Concord yet. Mr. DegliAngeli stated that the ten-year plan exists, but specifically the north/south road from the Fairway to Common Court is scheduled for next year. Ms. Browne stated that as long as they appropriate the money. Mr. DegliAngeli agreed, but stated that it is in their plan. Mr. DegliAngeli stated that there has been a scoping meeting and stated that anything can happen, but when we got to the scoping meeting for the bike lanes on the West Side Road they were constructed the next year.

Ms. Woodall stated that her concern is that the land has not been taken North of the Fairway. Ms. Woodall asked what is the time frame. Mr. Hastings stated that there has been no notice of taking, however, they have taken the condominiums at Settler's Green. Mr. Hastings stated that the State has not started the taking process. Mr. Hastings stated that when the State lays out a road, the landowner cannot not dispute the location, but can fight over the price of the land. Ms. Woodall stated that she cannot ask for public comment as this is a public meeting, but not a public hearing.

Mr. Cuddy made a motion, seconded by Mr. Fitch, that Walmart has satisfied all the conditions. Motion carried with Ms. Woodall abstaining.

OTHER BUSINESS

John Waterman - Potential Member/Alternate

Ms. Emerson introduced Mr. Waterman to the Board and explained that he was interested in being a member of the Planning Board. Mr. Fitch made a motion, seconded by Mr. Cuddy, to appoint Mr. Waterman as an alternate to the Planning Board. The motion was defeated with Ms. Woodall, Ms. Browne and Mr. Hylen voting in the negative. Ms. Woodall stated that the Board agreed to wait the two (2) week period in which they advertised before electing anyone to the Board.

Bob deFeyter - Design Review Committee

Mr. Fitch stated that he did not remember appointing Mr. deFeyter to the Design Review Committee, nor could he find a motion in the April 2, 1998, minutes. After a brief discussion, Mr. Fitch made a motion, seconded by Ms. Browne, to appoint Mr. deFeyter to the Design Review Committee. Motion carried with Mr. Hylen abstaining. (Note: there was a motion found in the Minutes of April 2, 1998, later in the meeting).

Richard & Carolyn Ficke/George, Gary, Richard & Ronald Duquette/Conway Hampshire Estates - Lot Consolidation (Map 12, Parcel 27-1,2&3) File #S98-08 - Plan Signing
The plans for Ficke/Duquette/Conway Hampshire Estates were signed.

The meeting adjourned at 9:15 p.m.
Respectfully Submitted,

Holly L. Meserve
Recording Secretary